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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-264

13 ROBIN JEANNE MASSE  
527 Oceanview Avenue  
Santa Cruz, California 95062  
14 Registered Nurse License No. 678388

**A C C U S A T I O N**

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
20 Department of Consumer Affairs.

21 2. On or about April 26, 2006, the Board of Registered Nursing issued  
22 Registered Nurse License Number 678388 to Robin Jeanne Masse (Respondent). The Registered  
23 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on February 28, 2010, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing  
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

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1           "(b) Use any controlled substance as defined in Division 10 (commencing with  
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as  
3 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or  
4 injurious to himself or herself, any other person, or the public or to the extent that such use  
5 impairs his or her ability to conduct with safety to the public the practice authorized by his or her  
6 license.

7           "(c) Be convicted of a criminal offense involving the prescription, consumption,  
8 or self-administration of any of the substances described in subdivisions (a) and (b) of this  
9 section, or the possession of, or falsification of a record pertaining to, the substances described in  
10 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
11 thereof."

12           8.       Section 490 of the Code states, in pertinent part, that "[a] board may  
13 suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the  
14 crime is substantially related to the qualifications, functions, or duties of the business or  
15 profession for which the license was issued. A conviction within the meaning of this section  
16 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action  
17 which a board is permitted to take following the establishment of a conviction may be taken  
18 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,  
19 or when an order granting probation is made suspending the imposition of sentence, irrespective  
20 of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

21           9.       Section 125.3 of the Code provides, in pertinent part, that the Board may  
22 request the administrative law judge to direct a licensee found to have committed a violation or  
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
24 and enforcement of the case.

25                   FIRST CAUSE FOR DISCIPLINARY ACTION

26                   (Substantially Related Conviction)

27           10.       Respondent is subject to disciplinary action under sections 2761(f) and  
28 490 of the Code in that she was convicted of a crime substantially related to the qualifications,

1 functions or duties of a registered nurse in that on or about August 29, 2008, in the Superior  
2 Court of California, County of Santa Cruz, Case Number M44696, entitled *The People of the*  
3 *State of California v. Robin Jean Masse*, Respondent was convicted by the court on her plea of  
4 no contest of violating section 23152(a) of the Vehicle Code (driving under influence of alcohol  
5 or drugs), a misdemeanor. Pursuant to said conviction, the imposition of sentence was  
6 suspended and Respondent was placed on probation for 60 months on terms and conditions,  
7 which included, but were not limited to, serving five days in the County jail, with work furlough  
8 release recommended, and enrolling and completing First Offender Drinking Driver Program.  
9 The factual circumstances surrounding said conviction are as follows:

10 a. On or about June 10, 2008, in Santa Cruz, California, Respondent was  
11 driving her vehicle, a 2003 Jeep Liberty, while under the influence of alcohol, and the results of  
12 tests of her blood alcohol content (BAC) were respectively .29 percent, .26 percent, and .27  
13 percent.

#### 14 SECOND CAUSE FOR DISCIPLINARY ACTION

15 (Conviction of a Crime Involving Alcohol)

16 11. The allegations of paragraph 10 hereby realleged and incorporated by  
17 reference as if fully set forth.

18 12. Respondent is subject to disciplinary action under section 2761(a) of the  
19 Code on the grounds of unprofessional conduct as defined by Code section 2762(c), in that on or  
20 about August 29, 2008, Respondent was convicted of a crime involving the consumption of  
21 alcoholic beverages, as set forth above in paragraph 10.

#### 22 THIRD CAUSE FOR DISCIPLINARY ACTION

23 (Use of Alcohol to a Dangerous Extent)

24 13. The allegations of paragraph 10 are hereby realleged and incorporated by  
25 reference as if fully set forth.

26 14. Respondent is subject to disciplinary action under Code section 2761(a) on  
27 the grounds of unprofessional conduct as defined in Code section 2762(b), in that on or about  
28 June 10, 2008, Respondent used and was under the influence of alcoholic beverages, while

1 driving a vehicle in Santa Cruz, California, to an extent dangerous or injurious to herself and the  
2 public.

3 MATTERS IN AGGRAVATION OF PENALTY

4 15. Complainant alleges, by way of aggravation of any penalty to be imposed  
5 in this matter, that on or about December 2, 2008, Respondent was terminated unsuccessfully  
6 from the Board's Diversion Program as a Public Safety Risk, after an intake date of July 16,  
7 2008, for the following reasons:

8 a. On September 2, 2008, Respondent relapsed on alcohol and on that date,  
9 showed up at her Nurse Support Group meeting impaired.

10 b. On October 7, 2008, Respondent reported to the Case Manager with the  
11 Board's Diversion Program that she and her significant other had been escorted by the police to  
12 El Camino's Hospital's emergency room and that she was being held, along with her significant  
13 other, for "5150<sup>1</sup>" suicidal concerns. At that time, Respondent denied that she was suicidal and  
14 claimed that her significant other was the one who was suicidal. The attending emergency room  
15 physician informed the Case Manager that Respondent had a .30 percent blood alcohol level.  
16 Upon returning to the phone, Respondent admitted to the Case Manager that she had been  
17 drinking alcohol with her significant other; whereupon, the Case Manager requested that  
18 Respondent enter a 60-day inpatient treatment program, which had already been requested by the  
19 Diversion Evaluation Committee. On October 9, 2008, Respondent entered inpatient treatment  
20 and was mandated by her treatment counselor on November 13, 2008 to remain in inpatient  
21 treatment for a total of 120 days. On December 1, 2008, the treatment counselor notified the  
22 Board's Diversion Program that Respondent had left her inpatient treatment against advice on  
23 November 26, 2008.

24 c. Respondent's termination from the Board's Diversion Program was due to  
25 the aforementioned two relapses and leaving her inpatient treatment program against advice.

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28 1. The involuntary hold was done pursuant to Welfare and Institutions Code section 5150.

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/22/09

*Ruth Ann Terry*  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant